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10 *Artis Capital Management, L.P., Sequoia*
11 *Capital Operations LLC and*
12 *TriplePoint Capital LLC*

13 UNITED STATES DISTRICT COURT
14
15 NORTHERN DISTRICT OF CALIFORNIA
16
17 SAN FRANCISCO DIVISION

18 VIACOM INTERNATIONAL INC., ET AL.

19 Plaintiffs,

20 v.

21 YOUTUBE, INC., ET AL.

22 Defendants.

23 THE FOOTBALL ASSOCIATION PREMIER
24 LEAGUE LIMITED, ET AL.

25 Plaintiffs,

26 v.

27 YOUTUBE, INC., ET AL.

28 Defendants.

CASE NO.: 3:08-MC-80129-SI

[Case No. 07-cv-02103 (LLS) in the
U.S. D.C., S.D.N.Y]

**DECLARATION OF ROBERT
RIEMER IN SUPPORT OF
RESPONDENTS' OPPOSITION TO
PLAINTIFFS' JOINT MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS PURSUANT TO
SUBPOENAS TO ARTIS CAPITAL
MANAGEMENT L.P., SEQUOIA
CAPITAL OPERATIONS LLC, AND
TRIPLEPOINT CAPITAL LLC**

[Case No. 07-cv-03532 (LLS) in the
U.S. D.C., S.D.N.Y]

Date: August 15, 2008

Time: 9:00 a.m.

Courtroom: 10

Judge: Honorable Susan Illston

1 I, Robert Riemer, hereby declare that:

2 1. I am the Chief Financial Officer for non-party Artis Capital Management, L.P.
3 (“Artis”). I became employed with Artis on April 15, 2008. I submit this declaration in support
4 of Respondents’ Opposition to Plaintiffs’ Joint Motion to Compel Production of Documents
5 Pursuant to Subpoenas to Artis Capital Management L.P., Sequoia Capital Operations LLC, and
6 TriplePoint Capital LLC. I have personal knowledge about the facts described below and if
7 called upon to testify, could competently testify to them.

8 2. Prior to my employment with Artis, Viacom International, Inc. et al. and The
9 Football Association Premier League, et al. served two identical non-party subpoenas on Artis in
10 connection with two cases they filed against YouTube in the United States District Court for the
11 Southern District of New York (“Subpoenas”).

12 3. I was not personally involved in the initial search for and collection of documents
13 responsive to the Subpoenas. However, I have personally spoken with my predecessor, who was
14 involved, and have reviewed and acquainted myself with our files regarding this matter.

15 4. In connection with its collection of materials in response to the Subpoenas, I
16 understand that Artis searched through its physical files to locate responsive documents, a
17 process which took approximately one business day.

18 5. With regard to email, Artis’ email archive falls into two different categories. The
19 first category consists of emails dated before June 21, 2006. Any such emails would reside on
20 backup tapes. The data retained on these tapes is maintained for the purposes of data recovery
21 and were not necessarily retained in a fashion that would allow for streamlined keyword
22 searches. Thus, performing a search of these emails would be both expensive and disruptive.

23 6. Recreating emails on backup tapes would first entail locating and creating an
24 inventory of our old tapes. I have been advised by our IT consultants that we would then be
25 required to build a standalone server for the purpose of rebuilding any email history available on
26 the tapes that are located. There can be no assurance that this effort would result in locating the
27 entire universe of emails to be searched. Our IT consultants have estimated that the process up
28 to this point would take eight to ten full person-days, working ten hour days. Based on our

1 experience with our IT consultants, such an endeavor would also be difficult for them to
2 schedule in the near term.

3 7. If such a server were built, and email could be reconstituted from backup tapes,
4 email files would be uploaded. Then, Artis, in coordination with its IT consultants and legal
5 counsel, would have to search emails by keyword. Because Artis has never conducted a
6 keyword search of emails restored from backup tapes, we cannot determine whether such a
7 search would be successful, or how difficult it would be. Based on searches that Artis has
8 conducted using more powerful software and programs provided by a vendor for other matters,
9 such a search would likely entail at least nine to ten person-days at ten hours per day. These time
10 demands on qualified Artis staff would be substantial and such an endeavor would be extremely
11 disruptive to Artis' business.

12 8. Due to the development of archiving technology and our own methodologies,
13 these backup tapes would also contain all Artis file backup data. This fact would add greatly to
14 the complexity of the rebuild and search process.


15 9. The second category of emails consists of those dated after June 21, 2006. Those
16 emails have been archived by an outside vendor called Safecore. The process for searching for
17 and retrieving responsive emails dated after June 21, 2006 would be as follows.

18 10. First, Artis would have to design and implement a search of the email inboxes of
19 the three Artis employees who were involved, or may have been involved, in Artis' investment
20 in YouTube's Series B round of funding. In order to effectively search, we estimate that at least
21 ten keyword and keyword combinations would have to be utilized. In our experience, such a
22 search of three employee mailboxes can possibly generate as many as 10,000 emails. After that,
23 an Artis employee would have to perform numerous sub-searches and manually winnow down
24 the number of emails generated. Such sub-searches might result in a net of 3,000 emails. At that
25 point, Artis in connection with its outside counsel, would need to manually review each of these
26 emails in order to determine its responsiveness, relevance and issues of privilege. We estimate
27 this process taking at least four to five person-days of ten hours per day.
28

1 11. Because Artis is located in California, all of Artis' employees and documents are
2 located in California.

3 I declare under penalty of perjury under the laws of the United States that the foregoing is
4 true and correct.

5 Executed on July 18, 2008, at San Francisco, California.

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8 Robert Riemer
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